

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0209-01  
Bill No.: HB 156  
Subject: Crimes and Punishment; Children and Minors; Prisons and Jails; Criminal Procedure  
Type: Original  
Date: January 14, 2015

---

Bill Summary: This proposal changes the laws regarding penalties for first degree murder when the person is under 18 years of age at the time the offense was committed.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>  |                    |                    |                    |
|--|--------------------|--------------------|--------------------|
| <b>FUND AFFECTED</b>                                 | <b>FY 2016</b>     | <b>FY 2017</b>     | <b>FY 2018</b>     |
| General Revenue                                      | (\$409,340)        | (\$302,247)        | (\$306,745)        |
| <b>Total Estimated Net Effect on General Revenue</b> | <b>(\$409,340)</b> | <b>(\$302,247)</b> | <b>(\$306,745)</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>              |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated Net Effect on <u>Other</u> State Funds</b> | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS                         |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2016    | FY 2017    | FY 2018    |
|   |            |            |            |
|   |            |            |            |
| <b>Total Estimated Net Effect on <u>All</u> Federal Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) |              |              |              |
|--|--------------|--------------|--------------|
| FUND AFFECTED                                      | FY 2016      | FY 2017      | FY 2018      |
| General Revenue                                    | 4 FTE        | 4 FTE        | 4 FTE        |
|  |              |              |              |
| <b>Total Estimated Net Effect on FTE</b>           | <b>4 FTE</b> | <b>4 FTE</b> | <b>4 FTE</b> |

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS |            |            |            |
|-------------------------------------|------------|------------|------------|
| FUND AFFECTED                       | FY 2016    | FY 2017    | FY 2018    |
| <b>Local Government</b>             | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Office of the State Public Defender (SPD)** state there are 84 juveniles currently serving life without parole. This legislation appears to give them a new hearing if their case isn't final for purposes of appeal. The SPD estimates 5 of the 84 cases would be eligible under this proposed legislation. The SPD would incur a minimum of \$15,000 times 5 cases for litigation costs. Plus the SPD would have to contract out these 5 cases to private attorneys for the sentencing phase at a cost of approximately \$5,000 per case.

Assuming the Missouri State Public Defender provides representation in just 5 juvenile Murder 1st cases per year. The RubinBrown weight we used in our Budget Request was 85.9 for non-capital homicide, without taking into account travel or court time. Assuming an attorney can provide representation in just 3 of these types of cases per year, that is 693.3 hours (2080 / 3), which is 1.5 attorneys (3,035.5 / 2,080). At 3 cases per year, it would require an additional 1.5 attorneys. Plus, these estimated 5 new cases would also require at least \$15,000 of litigation costs.

**Oversight** has reduced the FTE Assistant Public Defender from 1.5 FTE to 1.0 FTE.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials at the **Department of Public Safety - Missouri Highway Patrol**, the **Office of the State Courts Administrator**, and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

Officials from the **Department of Corrections (DOC)** state the bill modifies the existing statute pertaining to first degree murder. An exemption exists for those under 16 that allows for a life sentence without eligibility for probation, parole, or release except by an act of governor. This provision now applies to those under the age of 18. New sentencing provisions for those under eighteen years of age mandate life without eligibility for probation, parole, or release, or a term of imprisonment, the minimum of which shall be at least thirty-five years for those over 16 or twenty five years for those under 16 years of age. Anyone sentenced prior to this law can appeal and have their sentence amended provided they were under 18 years of age. This may allow a small number of offenders who have served 25 to 35 years in prison to be released in the coming years. No new criminal penalties are created in this bill.

ASSUMPTION (continued)

Currently, 83 offenders are impacted by this legislation. None were sentenced to death. The majority have several more years to serve before they can appeal their cases. Over the next ten years, as many as sixteen can request an appeal and be eligible for probation, parole, or release.

The FY14 average cost of supervision is \$6.72 per offender per day or an annual cost of \$2,453 per offender. The DOC cost of incarceration is \$16.725 per day or an annual cost of \$6,105 per offender.

The DOC assumes this legislation will result in long term savings. Potential savings would not be realized until the third year and will vary according to the population eligible for probation, parole, or release due to this legislation.

The DOC has estimated a savings ranging from \$6,352 in FY 2018 to \$21,459 in FY 2024.

**Oversight** assumes these estimated savings amounts to be not material and will not reflect them in the fiscal note.

| <u>FISCAL IMPACT - State Government</u>                 | FY 2016                   | FY 2017                   | FY 2018                   |
|---|---------------------------|---------------------------|---------------------------|
| <b>GENERAL REVENUE FUND</b>                             |                           |                           |                           |
| <u>Costs - Office of the State Public Defender</u>      |                           |                           |                           |
| Personal Service  | (\$132,828)               | (\$134,156)               | (\$135,498)               |
| Fringe Benefits   | (\$69,077)                | (\$69,768)                | (\$70,466)                |
| Equipment and Expense of 4 FTEs                         | (\$32,435)                | (\$21,448)                | (\$21,984)                |
| One Time Litigation Costs                               | (\$75,000)                | \$0                       | \$0                       |
| One Time Contract Counsel Costs                         | (\$25,000)                | \$0                       | \$0                       |
| On Going Litigation Costs                               | (\$75,000)                | (\$76,875)                | (\$78,797)                |
| <u>Total Costs - SPD</u>                                | <u>(\$409,340)</u>        | <u>(\$302,247)</u>        | <u>(\$306,745)</u>        |
| FTE Change - SPD  | 4 FTE                     | 4 FTE                     | 4 FTE                     |
| <b>ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND</b> | <b><u>(\$409,340)</u></b> | <b><u>(\$302,247)</u></b> | <b><u>(\$306,745)</u></b> |
| Estimated Net FTE Change for the General Revenue Fund   | 4 FTE                     | 4 FTE                     | 4 FTE                     |

FISCAL IMPACT - Local Government

FY 2016

FY 2017

FY 2018

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal changes the laws regarding penalties for first degree murder when the defendant is under 18 years of age at the time the offense was committed. In its main provisions, the bill:

(1) Requires the courts to sentence a person who was 16 years of age or older at the time of the murder to a term of imprisonment for life without eligibility for probation, parole, or release, or a term of imprisonment for a minimum of 35 years;

(2) Requires the courts to sentence a person who was under 16 years of age at the time of the murder to a term of imprisonment for life without eligibility for probation, parole, or release, or a term of imprisonment for a minimum of 25 years;

(3) Requires a prosecuting or circuit attorney to file a notice of intent after conviction and before sentencing if he or she intends to seek a punishment of imprisonment for life without eligibility for probation, parole, or release;

(4) Requires the trier to consider certain specified factors when determining whether to impose a sentence of life without eligibility for probation, parole, or conditional release; and

(5) Allows any person under 16 years of age sentenced to imprisonment for life without eligibility for probation, parole, or release before the effective date of these provisions for an offense committed when the person was less than 18 years of age whose case is not final for purposes of appeal as of the effective date of these provisions to file, within six months of the effective date of these provisions, a motion with the sentencing court for a hearing to review the person's sentence for murder in the first degree.

FISCAL DESCRIPTION (continued)

If the person pleaded guilty or waived the right to a jury trial when the person was originally sentenced, the sentencing hearing must be heard by a judge. If a jury sentenced the person, a new jury must be selected or a jury may be waived by agreement of both parties. The sole purpose of the sentencing hearing will be to determine if the sentence of imprisonment for life without eligibility for probation, parole, or conditional release must remain or be amended in accordance with these provisions.

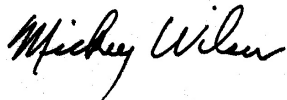
The procedures provided under these provisions do not apply to any case that is final for purposes of appeal as of the effective date.

This proposal contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the State Public Defender  
Department of Public Safety  
Office of the State Courts Administrator  
Office of Prosecution Services  
Attorney General's Office  
Department of Corrections



Mickey Wilson, CPA  
Director  
January 14, 2015

Ross Strobe  
Assistant Director  
January 14, 2015